

REMARKS

Applicants wish to thank the Examiner for the courtesy extended in an interview on November 18, 2004.

I. Status of the Claims

Claims 1, 2, 4, 9, 10, 12, 59, 61 and 63-66 are pending in the application. Claims 1, 9 and 59 are independent claims. Claims 1, 4, 9, 12 and 59 have been amended. Claim 62 has been cancelled. No new matter has been added.

II. Rejections Under 35 U.S.C. § 103(a)

All of the pending claims are rejected under 35 U.S.C. § 103 over the art of record (Redford, Ream, Yamamoto, Krubert, Van Os, Karlyn (I and II) and Averill) for the reasons set forth in an earlier office action, dated January 20, 2004 (see the present Office Action at page 2).

III. Amendments to the Claims

As amended, all of the claims are directed to printing plural images on the non planar surfaces of sugar shell confectionery pieces. Claim 62, which previously recited sugar shell confectionery pieces, has been cancelled.

Claim 9 sets out that the second image is placed no more than 1/64 inch from a design placement and that a pressure differential is applied to prevent “yawing and skewing” of the piece during transport. These limitations (which are supported in the specification at page 25, line 17, and page 18, lines 10-19, for example) are believed to add greater precision to the claimed “registration.”

IV. Argument

Redford (WO 91/01884) teaches the use of a drum having vacuum pockets to convey tablets between a printing station 35 and a laser etch station 41 (see Abstract). As noted

in Redford itself, a drum having vacuum pockets was known in the art, as U.S. Patent No. 4,254,704 is said to teach that feature (see Redford page 3, lines 4-10). However, Redford does not teach or suggest the use of such drum (or other system) to keep an edible piece registered between two printing steps.

To the contrary, Redford explicitly teaches away from the use of offset printing to form complex, sharp images (see page 4, lines 26-30; and page 10, lines 25-26). The purported advance in the art suggested by Redford is the use of an etch station after a print station, to provide images "not possible using conventional tablet ink-printing techniques." (page 10, lines 25-26).

The Office Action nevertheless finds a motivation to use a drum having vacuum pockets to maintain registration between two printing steps as follows: "since it was conventional to employ vacuum pockets or wells with curved surface articles requiring registration between two steps, one of which is a printing step and one of which is a printing modification step, one would fully expect and be fairly led, to employ vacuum wells or pockets when printing curved surfaced articles employing two printing steps." (Office Action, page 2) However, the "requiring registration between two steps" does not come from Redford. Redford does not disclose a requirement for registration and does not describe registration between a first and second image.

Redford prints a background (rectangle 12; see page 7, lines 1-2, and Fig. 3) and then etches the alphanumeric characters into the background, so that there is no registration of two component "images." Although the Office Action suggests that "the article [in Redford] must be vacuum fixed for registration for the second operation," (Office Action, page 3), this is only implied. There is no description as to how precise that registration would have to be to

ensure proper placement of a second image. Looking at Figure 2, the pieces are set in the pockets with a certain amount of room to move. Thus, if etch station 41 were replaced with a second print station, it appears nothing would prevent the tablet from moving during that step and losing registration, causing the second image to be misplaced. In summary, Redford teaches away from using printing means to form sharp, complex images, and the motivation to hold a sugar shell confectionery with a non-planar printing surface in registration between two printing steps is not found in Redford. As discussed at the Examiner interview, the vacuum employed on the drum in Redford is simply used to move the pieces and would not necessarily hold the pieces in registration if the pieces were subjected to contact printing because Redford does not contemplate the piece actually being physically touched by marking system 41.

Ream also fails to provide motivation that would lead to the claimed invention. At page 3, the Office Action says of the applicants' characterization of Ream: "it is urged on page 2 that Ream is the only reference that prints on an edible." What applicants have urged is that Ream is the only reference in which two component images are printed on an edible substrate (see July 20, 2004 Response, page 2). In that case (*i.e.*, in Ream), the edible substrates are large and flat, such that keeping the pieces in registration (such as by preventing yawing and skewing of the piece), is not an issue. Applicants agree with the statement in the Office Action, that if Ream disclosed printing plural images onto non planar surfaces (rather than large sheets of chewing gum) that reference would be closer to an anticipation. However, that is not the case, and starting from Ream, it would not have been obvious to print two composite images on a non-planar sugar shell surface because there is no motivation to suggest that two registered images could be printed on such a substrate.

As set forth in independent claim 9, according to an aspect of the present invention, the registration of the two component images is better than 1/64 inch. That is, the component images are placed so that the first image is no more than 1/64 inch from its designed placement with respect to the second image. This has the result that the images together appear as a single composite image (see, for example, page 2, lines 19-22). In a previous Office Action, the registration in claim 63 was said to be “an obvious function of the particular product one chooses to be printed.” Applicants submit that the precision of the registration step should not be considered obvious, absent some indication in the prior art that it would be possible to obtain the necessary precision to print multiple images in registration on sugar shell confectionery. Nothing in the prior art indicates that would be the case, and applicants submit that the rejection under 35 U.S.C. § 103 should be withdrawn.

With respect to Yamamoto, Krubert, Van Os, Karlyn (I and II) and Averill, applicants submit that these references are, at best, cumulative to the references discussed above. In any event, they have been extensively discussed on the record by both applicants and the Examiner. None of them, individually or taken together, teaches or suggests the claimed invention. The connection between what these references teach and the specific problem of printing on sugar shell confectionery pieces is attenuated at best. It is not sufficient under the law to say that these references are analogous art simply because they deal with printing; they must be concerned at some level with the specific problem addressed by applicants invention, which in this case, they are not.

In summary, although Ream teaches printing composite images on flat edible substrates, and Redford teaches holding pieces in a vacuum pocket between a printing step and an etching step, the references together do not together teach printing composite images on non

planar sugar shell confectionery pieces. To the contrary, Redford specifically teaches away from the use of offset printing to print detailed images on a small non-planar piece.

CONCLUSION

This Amendment After Final Action is believed clearly to place this application in condition for allowance and its entry is therefore believed proper under 37 C.F.R. § 1.116. Entry of this Amendment After Final Action, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, the Examiner is respectfully requested to contact Applicant's undersigned attorney in an effort to resolve such issues and advance the case to issue.

Applicants respectfully submit that the foregoing amendment to the claims does not raise new issues requiring further search and/or consideration. A "sugar shell confectionery piece" was previously recited in a dependent claim, as was the limitation regarding the registration of the images being better than 1/64 inch. The limitation that the pieces are held so as to prevent "yawing or skewing" merely clarifies what has been urged repeatedly during prosecution to clarify what is meant by "registration." Consideration thereof is respectfully requested.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should be directed to our address given below.

Respectfully submitted,



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